

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARY JONES and JOSEPH ALFORD,

Plaintiffs,

V.

**HOUSTON COUNTY SHERIFF'S
DEPARTMENT, et al.,**

Defendants.

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CIVIL ACTION NO.: 1:06-cv-585-WHA

MOTION TO DISMISS OR IN THE ALTERNATIVE
FOR SUMMARY JUDGMENT

COME NOW, Houston County, Alabama, the Houston County Commission and Mark S. Culver, individually and in his official capacity as Chairman of the Houston County Commission, Defendants in the above-styled cause, pursuant to Rule 12 of the Federal Rules of Civil Procedure and move this Honorable Court to dismiss this action for failure to state a claim upon which relief can be granted. In the alternative, said Defendants move this Honorable Court for an Order under Rule 56, of the Federal Rules of Civil Procedure, dismissing Plaintiff's claims against said Defendants and as grounds therefor assert that there is no genuine issue of material fact and that said Defendants are entitled to judgment as a matter of law. In support hereof said Defendants submit the following:

1. Plaintiff's complaint as filed in this cause.

2. The Affidavit of Mark S. Culver as attached to this Motion as Exhibit 1, which is incorporated herein by reference as if fully set forth.

WHEREFORE, said Defendants respectfully move this Honorable Court for an order under either Rule 12 or Rule 56 of the Federal Rules of Civil Procedure, dismissing Plaintiff's claims against said Defendants.

Respectfully submitted this the 9th day of August, 2006.

s/Gary C. Sherrer

Gary C. Sherrer

Bar Number: SHE016

Attorney for Defendants

Houston County, Alabama

Houston County Commission

Mark S. Culver, individually and in his official capacity as Chairman of the Houston County Commission

OF COUNSEL

Sherrer, Jones & Terry, P.C.

335 West Main Street

Dothan, Alabama 36301

Phone: (334) 678-0100

Fax: (334) 678-0900

E-mail: gary@sjt-law.com

CERTIFICATE OF SERVICE

I, Gary C. Sherrer, hereby certify that on this 9th day of August, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Richard H. Ramsey, IV, Esq.
P.O. Box 6595
Dothan, Alabama 36302

Michael Guy Holton, Esq.
2779 Old Carter Hill Road
Pike Road, Alabama 36064

s/Gary C. Sherrer
OF COUNSEL